

UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF CALIFORNIA

MARCUS KUTTERER,

Plaintiff,

v.

SOLANO COUNTY JAIL, et al.,

Defendants.

No. 2:21-cv-0772 DB P

ORDER AND FINDINGS AND  
RECOMMENDATIONS

Plaintiff is a county jail inmate proceeding pro se with a civil rights action pursuant to 42 U.S.C. § 1983. Plaintiff claims that he was subjected to sexual harassment based on a comment made by defendant.

By order dated August 25, 2021 the first amended complaint was screened and dismissed. (ECF No. 11.) Plaintiff was given thirty days leave to file an amended complaint and warned that failure to file an amended complaint would result in a recommendation that this action be dismissed. (Id.) Those thirty days passed, and plaintiff did not file an amended complaint or request additional time to file an amended complaint. However, plaintiff filed a notice and a request seeking placement on a list so that he could receive phone calls. (ECF Nos. 13, 14.) In light of his pro se status, the court granted plaintiff an additional thirty days to file an amended complaint. (ECF No. 15.) Plaintiff was again advised that failure to file an amended complaint would result in a recommendation that this action be dismissed. (Id.) Those thirty days have

1 passed, and plaintiff has not filed an amended complaint, sought additional time to file, or  
2 otherwise responded to the court's orders. Accordingly, the court will recommend that this action  
3 be dismissed for failure to prosecute and failure to comply with court orders.


4 For the reasons set forth above, the Clerk of the Court is ORDERED to randomly assign  
5 this action to a District Judge.

6 IT IS HEREBY RECOMMENDED that this action be dismissed without prejudice. See  
7 Local Rule 110; Fed. R. Civ. P. 41(b).

8 These findings and recommendations are submitted to the United States District Judge  
9 assigned to the case, pursuant to the provisions of 28 U.S.C. § 636(b)(1). Within twenty days  
10 after being served with these findings and recommendations, plaintiff may file written objections  
11 with the court and serve a copy on all parties. Such a document should be captioned "Objections  
12 to Magistrate Judge's Findings and Recommendations." Plaintiff is advised that failure to file  
13 objections within the specified time may waive the right to appeal the District Court's order.

14 Martinez v. Ylst, 951 F.2d 1153 (9th Cir. 1991).

15 Dated: January 20, 2022

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18 DEBORAH BARNES  
19 UNITED STATES MAGISTRATE JUDGE  
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25 DB/DB Prisoner Inbox/Civil Rights/R/kutt0772.f&r  
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